

# LEGISLATIVE COMMITTEE MEETING MINUTES

September 1, 2005  
10:00 a.m.

Holiday Inn Koger Center, South

Members Present: John Howell, Chairman  
Linda Cage, Co-Chairman  
Shannon Williams  
Roger Wiley  
David Ogburn

Remote: Southwest Virginia

Staff Present: Mr. Marzolf Marzolf, Coordinator  
Dorothy Spears-Dean, Analyst  
Terry Mayo, Administrative Assistant

## **CALL TO ORDER**

Mr. Howell, Chairman, called the meeting of the Legislative Committee to order at 10:00 AM.

## **INTRODUCTIONS**

Mr. Howell asked the committee members to introduce themselves to the audience. Also, after which, the audience introduced themselves to the committee members.

## **APPROVAL OF THE LAST MEETING MINUTES**

Mr. Howell called for approval of the last meeting's minutes. Ms. Cage made a motion, seconded by Mr. Ogburn, that the minutes be approved as written; approved 5-0-0.

## **DISCUSSION OF DIRECTION FROM SECOND MEETING**

Mr. Marzolf suggested that the committee begin the meeting by discussing the direction developed at the last meeting to determine if anyone had new ideas or a change of heart since the last meeting. Each of the following items was explained and discussed:

- Address VoIP and IP-based network by giving the Board authority to address and fund with general funds
- Require VoIP to pay the local wireline E-911 surcharge
- Add duty for Board to publish and promote best practices
- Protect the fund and balance by restructuring fund to disburse funding to PSAPs automatically and provide the rest as grants

During the discussion, Ms. Cage commented that she felt that the PSAP community was concerned about the \$3.7 million being provided annually to the Virginia State Police through the budget process. On the issue of expanding the Board's role, Mr. Wiley asked the committee and members if there were alternatives to giving this responsibility to the Board. No alternatives were suggested. Mr. Howell suggested that with expanding the role of the Board to include VoIP it may be appropriate to add a VoIP representative to the Board either replacing an existing wireless provider or also adding a PSAP member to maintain a balance on the Board. During the discussion, several noted that as telecommunications services progress providers will offer several services making the distinction less important.

Mr. Howell pointed out that he did not recall the direction from the second meeting included that VoIP carriers should be required to collect the local wireline surcharge. He opposed this position and felt it more appropriate that VoIP pay a \$.75 surcharge. Mr. Marzolf said that the Board may not wish to take a position on this if it is a local surcharge or funding issue. Mr. Wiley and Ms. Cage asked that it remain a recommendation even if specific language is not provided or endorsed by the Board. On the issue of restructuring the payment processes, Lt. Staylor of Chesapeake suggested that the PSAP distribution percentages should be recalculated every year or two to account for unusual call load growth in some localities.

After the discussion of each item, Mr. Marzolf asked for a sense of the committee to determine which items had the support to consider specific legislative language. Mr. Howell asked each member to vote on expanding the Board role to include VoIP and the IP-based network. All members supported this change with the exception of Mr. Wiley who abstained. Mr. Howell asked each member to vote on recommending that VoIP carriers be required to collect the wireline E-911 surcharge. All members supported this change with the exception of Mr. Howell who opposes the change. Mr. Wiley suggested that it may be more appropriate for the votes to be taken in the form of a motion. Mr. Wiley then made a motion, seconded by Mr. Howell, to NOT make any legislative changes to address PSAP best practices; failed 1-2-2. Mr. Williams made a motion, seconded by Mr. Howell, to recommend legislative language to add as duty of the Board to publish best practices for PSAPs; approved 2-1-2. Mr. Williams made a motion, seconded by Ms. Cage, to recommend legislative language to make the funding process more automatic; approve 3-1-1.

## **SPECIFIC LEGISLATIVE CHANGES**

The committee moved forward discussing the specific legislative language changes for each of the approved items. Mr. Marzolf reviewed the draft of such changes prepared after the second meeting. The committee with input from audience members edited the document as it was being reviewed. The following language was created (red changes are for expanding the Board's role; blue changes are for PSAP best practices; and green are for changing the funding process):

### **Proposed Wireless Legislation**

§ 56-484.12. Definitions.

As used in this article, unless the context requires a different meaning:

"Automatic location identification" or "ALI" means a telecommunications network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireless Enhanced 9-1-1 call.

"Automatic number identification" or "ANI" means a telecommunications network capability that enables the automatic display of the telephone number used to place a wireless Enhanced 9-1-1 call.

"Board" means the Wireless E-911 Services Board created pursuant to this article.

"Chief Information Officer" or "CIO" means the Chief Information Officer appointed pursuant to § 2.2-2005.

"Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by the Division.

"CMRS" means mobile telecommunications service as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"CMRS provider" means an entity authorized by the Federal Communications Commission to provide CMRS within the Commonwealth of Virginia.

"Division" means the Division of Public Safety Communications created in § 2.2-2031.

"Enhanced 9-1-1 service" or "E-911" means a service consisting of telephone network features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated and provides the capability for ANI and ALI features.

"FCC order" means Federal Communications Commission Order 94-102 (61 Federal Register 40348) and any other FCC order that affects the provision of E-911 service to CMRS customers.

"Local exchange carrier" means any public service company granted a certificate to furnish public utility service for the provision of local exchange telephone service pursuant to Chapter 10.1 (§ 56-265.1 et seq.) of Title 56.

"Place of primary use" has the meaning attributed in subsection M of § 58.1-3812.

"Public safety answering point" or "PSAP" means a facility (i) equipped and staffed on a 24-hour basis to receive and process E-911 calls or (ii) that intends to receive and process

E-911 calls and has notified CMRS providers in its jurisdiction of its intention to receive and process such calls.

*"VoIP Service" means interconnected voice over Internet protocol service as defined in FCC Order 05-116, Part 9 of Title 47 of the Code of Federal Regulations 9.3, as may be amended.*

~~"Wireless E-911 CMRS costs" means all reasonable, direct recurring and nonrecurring capital costs and operating expenses incurred by CMRS providers in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireless E-911 service, which have been sworn to by an authorized agent of a CMRS provider.~~

"Wireless E-911 fund" means a dedicated fund consisting of all moneys collected pursuant to the wireless E-911 surcharge, as well as any additional funds otherwise allocated or donated to the wireless E-911 fund.

~~"Wireless E-911 PSAP costs" means all reasonable direct recurring and nonrecurring capital costs and operating expenses incurred by a PSAP in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireless E-911 service and direct personnel costs incurred in receiving and dispatching wireless E-911 emergency telephone calls, which have been sworn to by an authorized agent of the PSAP.~~

"Wireless E-911 service" means the E-911 service required to be provided by CMRS providers pursuant to the FCC order.

"Wireless E-911 surcharge" means a monthly fee of \$0.75 billed by each CMRS provider and CMRS reseller on each CMRS number of a customer with a place of primary use in Virginia; provided, however, that any fee collected or paid pursuant to the third paragraph of subsection B of § 56-484.17 is not required to be billed.

§ 56-484.14. Powers and duties of Wireless E-911 Services Board.

The Board shall have the power and duty to:

1. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, including purchase agreements payable from (i) the Wireless E-911 Fund and (ii) other moneys appropriated for the provision of enhanced ~~wireline~~ emergency telecommunications services ~~only in specific local jurisdictions that are not wireline E-911 capable as of July 1, 2000.~~
2. Pursue all legal remedies to enforce any provision of this article, or any contract entered into pursuant to this article.

3. Develop a comprehensive, *statewide enhanced emergency telecommunications plan for wireless E-911, VoIP E-911 and any other future communications technologies accessing E-911 for emergency purposes* ~~emergency telecommunications plan for implementing statewide enhanced wireless and VoIP emergency telecommunications services.~~ In constructing and periodically updating this plan as appropriate, the Board shall monitor trends and advances in enhanced wireless, *VoIP and other* emergency telecommunications technologies, plan and forecast future needs for *these* enhanced ~~wireless emergency telecommunications~~ technologies, and formulate strategies for the efficient and effective delivery of enhanced ~~wireless~~ emergency telecommunications services *in the future*.
4. *Promote the implementation of the plan to address future needs of the enhanced emergency telecommunications technologies by providing grant funding to PSAPs and telecommunications providers that support the plan.*
5. Develop and adopt regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), *for the expenditure of funds* for ~~funding~~ enhanced wireless *and of other appropriated funds for* emergency telecommunication services in the Commonwealth.
6. Grant such extensions of time for compliance with the provisions of § 56-484.16 as the Board deems appropriate.
7. Take all steps necessary to inform the public of the use of the digits "9-1-1" as the designated emergency telephone number and the use of the digits "#-7-7" as a designated non-emergency telephone number.
8. Report annually to the Governor, the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission on (i) the state of enhanced ~~wireless~~ emergency telecommunications services in the Commonwealth, (ii) the impact of, or need for, legislation affecting enhanced ~~wireless~~ emergency telecommunications services in the Commonwealth, *and* (iii) the need for changes in the ~~Wireless~~ E-911 funding mechanism *provided to the Board*, as appropriate, ~~and (iv) the sufficiency of other moneys appropriated for the provision of enhanced wireline emergency telecommunications services only in those local jurisdictions not wireline capable as of July 1, 2000.~~
9. Provide advisory technical assistance to PSAPs and state and local law enforcement, and fire and emergency medical service agencies, upon request.
10. Collect, distribute, and withhold moneys from the Wireless E-911 Fund as provided in this article.
11. Develop a comprehensive single, statewide electronic addressing database to support geographic data and statewide base map data programs pursuant to § 2.2-2027.

12. Receive such funds as may be appropriated for purposes consistent with this article and such gifts, donations, grants, bequests, or other funds as may be received from, applied for or offered by either public or private sources.

13. Manage other moneys appropriated for the provision of enhanced ~~wireline~~ emergency telecommunications services ~~only in specific local jurisdictions that are not wireline E-911 capable as of July 1, 2000.~~

14. Perform all acts necessary, convenient or desirable to carrying out the purposes of this article.

*15. Drawing from the work of E-911 professional organizations, in its sole discretion, publish best practices for PSAPs. These best practices shall be voluntary and recommended by a subcommittee composed of PSAP representatives.*

§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 2.2-2031, moneys in the Fund shall be used ~~solely~~ for the purposes stated in subsections C through ~~DE~~. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Information Officer of the Commonwealth.

B. Each CMRS provider shall collect a wireless E-911 surcharge from each of its customers whose place of primary use is within the Commonwealth. In addition, the wireless E-911 surcharge shall be imposed on wireless customers who purchase prepaid CMRS service, subject to the provisions in this subsection. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Board for deposit in the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the amount collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers who do not purchase CMRS service on a prepaid basis shall be subject to the provisions of subsection K of § 58.1-3812.

For CMRS customers who do not purchase CMRS service on a prepaid basis, the CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

For CMRS customers who purchase CMRS service on a prepaid basis, the wireless E-911 surcharge shall be determined according to one of the following methodologies:

- a. The CMRS provider and CMRS reseller shall collect, on a monthly basis, the wireless E-911 surcharge from each active prepaid customer whose account balance is equal to or greater than the amount of the surcharge; or
- b. The CMRS provider and CMRS reseller shall divide its total earned prepaid wireless telephone revenue with respect to prepaid customers in the Commonwealth within the monthly E-911 reporting period by \$50, multiply the quotient by the surcharge amount, and pay the resulting amount to the Board without collecting a separate charge from its prepaid customers for such amount; or
- c. The CMRS provider and CMRS reseller shall collect the surcharge at the point of sale.

Collection of the wireless E-911 surcharge from or with respect to prepaid customers shall not reduce the sales price for purposes of taxes which are collected at point of sale.

~~C. To the extent of appropriated funds, the Board shall provide full payment to PSAP operators for all wireless E-911 PSAP costs and to CMRS providers of all wireless E-911 CMRS costs. For these purposes (i) each PSAP operator shall submit to the Board on or before October 1 of each year, an estimate of wireless E-911 PSAP costs it expects to incur during its next fiscal year and (ii) each CMRS provider shall submit to the Board on or before December 31 of each year an estimate of wireless E-911 CMRS costs it expects to incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates. The Board shall review such estimates and advise each PSAP operator and CMRS provider on or before the following March 1 whether its estimate qualifies for payment hereunder and whether the Wireless E-911 Fund is expected to be sufficient for such payment during said fiscal year. Each PSAP operator and CMRS provider shall notify the Board promptly of any material change in its plans to provide wireless E-911 service. Fifty percent of the Wireless E-911 fund shall be distributed on a monthly basis to the PSAPs according to the percentage of recurring wireless E-911 funding received by the PSAP for FY2006, as determined by the Board. The Board shall recalculate the distribution percentage for each PSAP at the start of each biennium based on the cost and call load data from the previous fiscal year. The other fifty percent of the fund shall be distributed to PSAP, CMRS providers or on behalf of PSAPs and CMRS providers based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from Fund, including procedures for determining the amount of a grant and payment schedule, however the grants must be to the benefit of wireless E-911. Any Wireless E-911 funding that has not been committed by the Board by the end of the fiscal year shall be distributed to the PSAPs based on the same distribution percentage used during the fiscal year in which the funding was collected.~~

~~D. The Board shall make such qualifying payments to each PSAP operator and CMRS provider at the beginning of each calendar quarter of such fiscal year or on an alternate schedule approved by the Board. If the Wireless E-911 Fund is insufficient during any calendar quarter to make all such qualifying payments, the Board shall prorate payments equally among all PSAP operators and CMRS providers during such calendar quarter. Unpaid amounts may be included in future funding requests to the Board.~~

~~E.~~ After the end of each fiscal year, on a schedule adopted by the Board, the Board shall *audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements* ~~determine whether qualifying payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or CMRS provider~~. Each grant recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to qualifying payments during the then current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding ~~with the next quarterly payment for~~ *in* the then current fiscal year.

~~F.~~ ~~Any estimate of wireless E-911 PSAP costs submitted to the Board after October 1 and any estimate of wireless E-911 CMRS costs submitted to the Board after December 31 of any year shall be reviewed by the Board as described in subsection C to the extent practicable as determined by the Board; however, any PSAP or CMRS costs submitted after the start of the fiscal year shall not be considered by the Board. Qualifying payments based on estimates submitted in accordance with the schedule set forth in subsection C shall have priority for payment.~~

~~G.~~ ~~CMRS providers and PSAPs found by the Board to be using the Wireless E-911 Fund moneys for purposes other than those authorized by the Board shall be provided with written notice by the Board of such unauthorized expenditures. Upon receipt of the notice, the named CMRS provider or PSAP shall cease making any expenditure involving Wireless E-911 Fund moneys identified by the Board as unauthorized. The CMRS provider or PSAP may petition and shall receive a hearing before the Board within a reasonable time. At the Board's discretion, the CMRS provider or PSAP shall be required to refund within 90 days any Wireless E-911 Fund moneys spent on unauthorized expenditures to the Board for deposit into the Wireless E-911 Fund. CMRS providers or PSAPs who fail to cease making unauthorized expenditures or fail to comply with a request to refund Wireless E-911 Fund moneys shall be subject to a suspension of future Wireless E-911 funding by the Board until such time as they comply with all provisions of this article. Any action of the Board made pursuant to this subsection shall be subject to appeal to the circuit court in which the CMRS provider or PSAP is located, or to the Circuit Court for the City of Richmond.~~

~~H.~~ The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the Wireless E-911 Fund. The cost of such audit shall be borne by the Board and be payable from the Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission.

~~I.~~ The special tax authorized by § 58.1-3813.1 shall not be imposed on consumers of CMRS.



## **Meeting Wrap-Up and Direction**

Mr. Howell thanked the committee members and audience for their participation.

There will not be any additional meetings of the Legislative Committee, but the next meeting of the full Wireless E-911 Services Board, when the Board will consider this change, will be September 14, 2005.

## **ADJOURNMENT**

Mr. Howell adjourned the meeting at 1:00 PM.

Respectfully submitted,

\_\_\_\_\_  
Steve Marzolf  
PSC Coordinator  
Public Safety Communications

Approved by Committee: \_\_\_\_\_  
(date)